

# Agenda

## Item #3



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commissioners  
From: Jonathan Wayne, Executive Director  
Date: August 9, 2012  
Re: Request for Waiver of Late-Filing Penalty/Lobbyist Sean Mahoney

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Sean Mahoney is a registered lobbyist for the Conservation Law Foundation (CLF). He was required to file a monthly report covering the month of June 2012 on Monday, July 16, 2012 at 11:59 p.m. Mr. Mahoney filed the report one day late on the morning of July 17, after Commission Registrar Matt Marett brought the error to the CLF's attention.

Mr. Mahoney has conducted no lobbying since April 2012. Therefore, for the report due July 15, Mr. Mahoney filed a "no activity report," which is merely a statement that he conducted no lobbying during the month of June 2012.

The preliminary penalty is \$50, because the report was only one day late. In 2011, the Legislature adopted a statutory proposal to amend 3 M.R.S.A. § 319(1). (P.L. 2011, Chapter 179) The amendment set out mitigating factors that would justify a waiver of a late-filing penalty, and it instituted a lower preliminary penalty of \$50 for late reports that were only one day late. Previously, the preliminary penalty for any report filed up to one month late was \$100.

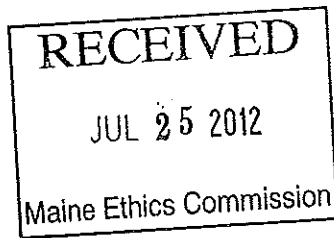
Ruth Tinsley, the CLF office manager, has requested a waiver of the penalty for Mr. Mahoney. She explains that the normal filing deadline of the 15<sup>th</sup> day of the month fell on a Sunday, and she neglected to change her computer reminder from the 15<sup>th</sup> to the 16<sup>th</sup>.

The staff has sympathy for the office manager who has earnestly admitted making a mistake, but we recommend no waiver of the preliminary penalty, in the interest of being consistent. In recent years, the Commission has generally been stricter when considering late-filing waiver requests by lobbyists, compared to the Commission's other filers. The Commission occasionally receives requests for waivers from lobbyists that are basically

due to inattention. It is hard to see why this request merits a waiver when others have been denied. Also, the penalty has already been reduced in half by the 2011 statute change.

Nevertheless, the Commission staff recognizes that the late filing was due to an innocent mistake. Because Mr. Mahoney filed a report of no lobbying activity and because the report was roughly 9½ hours late, there was virtually no harm to the public from the late disclosure. Also, when the Legislature reduced the preliminary penalty to \$50 for reports that were one day late, it did not foreclose the possibility of further waivers by the Commission. So, the Commission staff sees no harm if you are persuaded by the request to reduce the penalty by one-half to \$25.

Thank you for your consideration of this memo.



For a thriving New England

CLF Maine 47 Portland Street, Suite 4  
Portland, ME 04101  
P: 207.210.6439  
F: 207.221.1240  
www.clf.org

July 24, 2012

Maine Ethics Commission  
135 State House Station  
Augusta, Maine 04333

To whom it may concern:

I am writing to request a waiver of the \$50 penalty fee incurred by Lobbyist Sean Mahoney on July 17, 2012 due to the late filing of his June 2012 Monthly Report.

As Mr. Mahoney's assistant, it is my responsibility to prepare the monthly reports on his behalf. The reason I missed the deadline was due to the fact that the 15<sup>th</sup> of the month (normal filing deadline) fell on a Sunday and I neglected to change my calendar reminder from the 15<sup>th</sup> to the 16<sup>th</sup> and thus missed the reminder and ultimately, the deadline. I take full responsibility for this and have taken steps to ensure it will not happen again.

As soon as the late filing was brought to our attention by Mr. Matthew Marett on the morning of July 17<sup>th</sup>, I immediately filed our monthly report at 9:23am (see attached June Monthly Report dated 7-17-12). As you can see from the report, Mr. Mahoney is not currently engaged in any lobbying activity and hasn't been since April of 2102. Because of this, and per Mr. Marett's advice, we also submitted a Non-Session Waiver for the remainder of the lobbying year (see attached Non-Session Waiver Report dated 07-19-12).

For these reasons, I ask for your consideration of waiving the current \$50 penalty fee.

Sincerely,

Ruth Tinsley  
Office Manager

### 3 MRSA § 319. PENALTY

**1. Failure to file registration or report.** Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$50. The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the fine or penalty in whole or in part; [2011, c. 179, §7 (NEW).]
- B. An error by the commission; or [2011, c. 179, §7 (NEW).]
- C. Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service. [2011, c. 179, §7 (NEW).]

[ 2011, c. 179, §7 (RPR) .]

**1-A. Notice of suspension.** Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

[ 1993, c. 446, Pt. B, §12 (AMD) .]

2. [ 1979, c. 632, §3 (RP) .]

**3. Exemption.** Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

[ 1993, c. 446, Pt. B, §13 (AMD) .]

#### SECTION HISTORY

1975, c. 576, (NEW). 1975, c. 621, §2 (RP). 1975, c. 724, (REEN). 1977, c. 696, §17 (AMD). 1979, c. 632, §3 (RPR). 1989, c. 114, (AMD). 1991, c. 465, §2 (AMD). 1993, c. 446, §§A15,B11-13 (AMD). 1993, c. 691, §22 (AMD). 2011, c. 179, §7 (AMD).



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135  
July 19, 2012

By Regular and Certified Mail

Mr. Sean Mahoney  
Conservation Law Foundation  
47 Portland Street, Suite 4  
Portland, ME 04101

RE: late filed lobbyist report

Dear Mr. Mahoney,


The Commission staff has made a preliminary determination that a penalty of \$50.00 applies for the late filing of your June lobbyist disclosure report. See 3 MRSA § 319. The report was due on July 16, 2012 and was not filed until July 17.

If you agree with this preliminary determination, please make your check or money order in that amount payable to "Treasurer, State of Maine," and send it, along with the bottom half of this letter, to the Commission on Governmental Ethics and Election Practices at 135 State House Station, Augusta, Maine 04333. You may also pay your penalty online with a Visa or MasterCard by visiting [www.maine.gov/ethics](http://www.maine.gov/ethics) and selecting the "penalty payment" option on the lower left-hand portion of the page.

You may also request a waiver of the preliminary penalty by submitting a statement, in writing, to the Commission stating the reason the report was filed late and requesting that the preliminary penalty be waived. All requests for waiver will be included on the agenda of the next Commission meeting.

Please either pay the preliminary penalty or submit a request for waiver within 14 days of the date of this letter. Please direct any questions you may have to me at 287-6221.

Sincerely,

  
(Matthew Marett  
PAC, Party & Lobbyist Registrar

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To: Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, Maine 04333

From: Mr. Sean Mahoney, Conservation Law Foundation

RE: Penalty for late filing of June 2012 Lobbyist Disclosure Report (\$50.00).

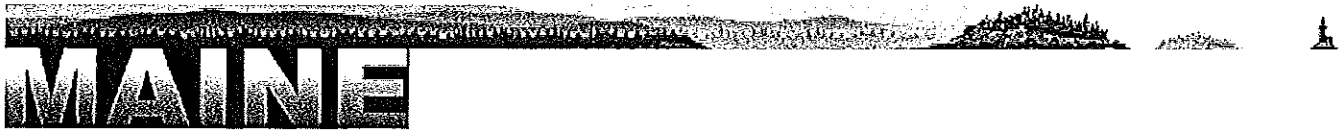
Penalty ID: 1865

Amount Enclosed: \$ \_\_\_\_\_ Check/M.O. No.: # \_\_\_\_\_

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

PHONE: (207) 287-4179

FAX: (207) 287-6775



Welcome to the Campaign Finance Electronic Filing System Site

## **FILED REPORT RECEIPT**

**LOBBYIST NAME:** Mr. Sean Mahoney  
**EMPLOYER NAME:** Conservation Law Foundation  
**E-MAIL ADDRESS:** smahoney@clf.org  
**REPORT TITLE:** Lobbyist Disclosure Monthly-  
Short Form  
**FILED DATE:** 07/17/12, 09:23 a.m. EST



## LOBBYIST DISCLOSURE REPORT FOR JUNE 2012

### LOBBYIST INFORMATION

Sean Mahoney  
Conservation Law Foundation  
47 Portland Street, Suite 4  
Portland, ME 04101

Telephone: (207)210-6439  
Fax:  
[smahoney@clf.org](mailto:smahoney@clf.org)

### CLIENT INFORMATION

Conservation Law Foundation  
Principal Contact: Sean Mahoney  
47 Portland Street, Suite 4  
Portland, ME 04101

Telephone: (207)210-6439  
Fax:  
[smahoney@clf.org](mailto:smahoney@clf.org)  
[www.clf.org](http://www.clf.org)

### CERTIFICATION

I, the undersigned, affirm that, during the month of the report, the lobbyist named above did not lobby on behalf of the named client and did not make any expenditures in support of lobbying or to or on behalf of any covered official or a family member of a covered official; and that the client received no contributions or payments from another during the month of the report for the purposes of lobbying; and that no information is knowingly withheld to the best of my knowledge.

Report filed by: Sean Mahoney  
Report filed on: July 17, 2012

If this report is filed by an authorized agent of the Principal Lobbyist, the Principal Lobbyist and the agent are liable for any violations of the Lobbyist Disclosure Law (3 M.R.S.A Chapter 15) that may result from the filing of a false or inaccurate report.

Unsworn falsification is a Class D crime (17-A M.R.S.A. § 453).





Welcome to the Campaign Finance Electronic Filing System Site

## **FILED REPORT RECEIPT**

**LOBBYIST NAME:** Mr. Sean Mahoney

**EMPLOYER NAME:** Conservation Law Foundation

**E-MAIL ADDRESS:** smahoney@clf.org

**REPORT TITLE:** Request for Waiver of Non-  
Session Reporting Requirement

**FILED DATE:** 07/19/12, 00:00

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES**  
Mail: 135 State House Station, Augusta, Maine 04333  
Office: 242 State Street, Augusta, Maine  
Phone: (207)287-6221 Fax: (207) 287-6775  
Website: <http://www.state.me.us/ethics>  
Electronic Filing: <http://mainecampaignfinance.com/public/home.asp>

**REQUEST FOR WAIVER OF NONSESSION REPORTING REQUIREMENTS**

I hereby swear or affirm that I do not expect to be engaged in lobbying after the adjournment of the second session of the 125th Legislature and before December 1, 2012. I therefore request a waiver, effective as of 07/19/2012, of the monthly nonsession reporting requirement as provided by 3 M.R.S.A. Section 317(4). I understand that if I resume lobbying activities after the date of adjournment and before December 1, 2012, I must file report(s) as required by 3 M.R.S.A. Section 317(4)(B).

MR. SEAN MAHONEY

07/19/2012

\_\_\_\_\_  
Signature of lobbyist or designee

\_\_\_\_\_  
Date

MR. SEAN MAHONEY

\_\_\_\_\_  
Please type or print name of signatory

**Employer(s):**

CONSERVATION LAW FOUNDATION  
\_\_\_\_\_

## **Marett, Matthew**

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**From:** Marett, Matthew  
**Sent:** Tuesday, July 17, 2012 8:46 AM  
**Subject:** lobbying report due

My records show that you have not yet filed a lobbyist report for June. Reports were due last night, July 16<sup>th</sup>, by 11:59 p.m. In several cases, requests for waiver were filed but had an effective date in June. The Commission needs a record of lobbying activity for the days in June before the effective date of the waiver. If reports are filed before 11:59 p.m. tonight, a preliminary penalty of only \$50 will be assessed. After that time, the preliminary assessment will jump to \$100. Please give me a call or send me an email with questions.

Sincerely,

Matt Marett

Matthew Marett  
Maine Ethics Commission  
PAC, Party & Lobbyist Registrar  
Mailing: 135 State House Station  
Augusta, Maine 04333  
T: (207) 287-6221  
F: (207) 287-6775